

By: Ellis

S.B. No. 1223

A BILL TO BE ENTITLED

AN ACT

relating to the making of a notation on a forged check by a financial institution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.591 to read as follows:

Sec. 35.591. NOTATION OF FORGED CHECK. (a) In this section, "victim of identity theft" means a person who has filed with an appropriate law enforcement agency a criminal complaint alleging commission of an offense under Section 32.51, Penal Code.

(b) If a victim of identity theft closes an account at a financial institution as a result of the identity theft and notifies the financial institution that the identity theft is the reason for closing the account, the financial institution shall:

(1) make a physical notation of "forgery" on the front and back of any document presented to the institution for payment that purports to be a check drawn on the closed account; or

(2) make an electronic notation of "forgery" on each electronic record pertaining to any document that is electronically presented to the financial institution for payment and that purports to be a check drawn on the closed account.

(c) If a financial institution does not possess the document presented for payment as described by Subsection (b), the financial institution shall instruct the person in possession of the document

1 to make a physical notation of "forgery" on the front and back of  
2 the document.

3 (d) This section does not apply to a check if the financial  
4 institution takes reasonable measures to verify the check's  
5 authenticity with the victim of identity theft.

6 (e) If a financial institution does not physically note that  
7 a document is a forgery, make an electronic notation that a document  
8 is a forgery, or instruct a person in possession of a document to  
9 make a notation that a document is a forgery as required by this  
10 section, the financial institution assumes the obligation of the  
11 victim of identity theft with respect to the document.

12 SECTION 2. This Act takes effect September 1, 2005.